

SECOND REGULAR SESSION

HOUSE BILL NO. 2036

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TRENT.

4645H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 610.021, RSMo, and to enact in lieu thereof one new section relating to the sunshine law.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 610.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.021, to read as follows:

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 following the action on the motion to authorize institution of such a legal action. Legal work
18 product shall be considered a closed record;

19 (2) Leasing, purchase or sale of real estate by a public governmental body where
20 public knowledge of the transaction might adversely affect the legal consideration therefor.
21 However, any minutes, vote or public record approving a contract relating to the leasing,
22 purchase or sale of real estate by a public governmental body shall be made public upon
23 execution of the lease, purchase or sale of the real estate;

24 (3) Hiring, firing, disciplining or promoting of particular employees by a public
25 governmental body when personal information about the employee is discussed or recorded.
26 However, any vote on a final decision, when taken by a public governmental body, to hire,
27 fire, promote or discipline an employee of a public governmental body shall be made
28 available with a record of how each member voted to the public within seventy-two hours of
29 the close of the meeting where such action occurs; provided, however, that any employee so
30 affected shall be entitled to prompt notice of such decision during the seventy-two-hour
31 period before such decision is made available to the public. As used in this subdivision, the
32 term "personal information" means information relating to the performance or merit of
33 individual employees;

34 (4) The state militia or national guard or any part thereof;

35 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
36 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
37 treatment;

38 (6) Scholastic probation, expulsion, or graduation of identifiable individuals,
39 including records of individual test or examination scores; however, personally identifiable
40 student records maintained by public educational institutions shall be open for inspection by
41 the parents, guardian or other custodian of students under the age of eighteen years and by the
42 parents, guardian or other custodian and the student if the student is over the age of eighteen
43 years;

44 (7) Testing and examination materials, before the test or examination is given or, if it
45 is to be given again, before so given again;

46 (8) Welfare cases of identifiable individuals;

47 (9) Preparation, including any discussions or work product, on behalf of a public
48 governmental body or its representatives for negotiations with employee groups;

49 (10) Software codes for electronic data processing and documentation thereof;

50 (11) Specifications for competitive bidding, until either the specifications are
51 officially approved by the public governmental body or the specifications are published for
52 bid;

53 (12) Sealed bids and related documents, until the bids are opened; and sealed
54 proposals and related documents or any documents related to a negotiated contract until a
55 contract is executed, or all proposals are rejected;

56 (13) Individually identifiable personnel records, performance ratings or records
57 pertaining to employees or applicants for employment, except that this exemption shall not
58 apply to the names, positions, salaries and lengths of service of officers and employees of
59 public agencies once they are employed as such, and the names of private sources donating or
60 contributing money to the salary of a chancellor or president at all public colleges and
61 universities in the state of Missouri and the amount of money contributed by the source;

62 (14) Records which are protected from disclosure by law;

63 (15) Meetings and public records relating to scientific and technological innovations
64 in which the owner has a proprietary interest;

65 (16) Records relating to municipal hotlines established for the reporting of abuse and
66 wrongdoing;

67 (17) Confidential or privileged communications between a public governmental body
68 and its auditor, including all auditor work product; however, all final audit reports issued by
69 the auditor are to be considered open records pursuant to this chapter;

70 (18) Operational guidelines, policies and specific response plans developed, adopted,
71 or maintained by any public agency responsible for law enforcement, public safety, first
72 response, or public health for use in responding to or preventing any critical incident which is
73 or appears to be terrorist in nature and which has the potential to endanger individual or
74 public safety or health. Financial records related to the procurement of or expenditures
75 relating to operational guidelines, policies or plans purchased with public funds shall be open.
76 When seeking to close information pursuant to this exception, the public governmental body
77 shall affirmatively state in writing that disclosure would impair the public governmental
78 body's ability to protect the security or safety of persons or real property, and shall in the same
79 writing state that the public interest in nondisclosure outweighs the public interest in
80 disclosure of the records;

81 (19) Existing or proposed security systems and structural plans of real property
82 owned or leased by a public governmental body, and information that is voluntarily submitted
83 by a nonpublic entity owning or operating an infrastructure to any public governmental body
84 for use by that body to devise plans for protection of that infrastructure, the public disclosure
85 of which would threaten public safety:

86 (a) Records related to the procurement of or expenditures relating to security systems
87 purchased with public funds shall be open;

88 (b) When seeking to close information pursuant to this exception, the public
89 governmental body shall affirmatively state in writing that disclosure would impair the public

90 governmental body's ability to protect the security or safety of persons or real property, and
91 shall in the same writing state that the public interest in nondisclosure outweighs the public
92 interest in disclosure of the records;

93 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by
94 the receiving agency within ninety days of submission to determine if retention of the
95 document is necessary in furtherance of a state security interest. If retention is not necessary,
96 the documents shall be returned to the nonpublic governmental body or destroyed;

97 (20) The portion of a record that identifies security systems or access codes or
98 authorization codes for security systems of real property;

99 (21) Records that identify the configuration of components or the operation of a
100 computer, computer system, computer network, or telecommunications network, and would
101 allow unauthorized access to or unlawful disruption of a computer, computer system,
102 computer network, or telecommunications network of a public governmental body. This
103 exception shall not be used to limit or deny access to otherwise public records in a file,
104 document, data file or database containing public records. Records related to the procurement
105 of or expenditures relating to such computer, computer system, computer network, or
106 telecommunications network, including the amount of moneys paid by, or on behalf of, a
107 public governmental body for such computer, computer system, computer network, or
108 telecommunications network shall be open;

109 (22) Credit card numbers, personal identification numbers, digital certificates,
110 physical and virtual keys, access codes or authorization codes that are used to protect the
111 security of electronic transactions between a public governmental body and a person or entity
112 doing business with a public governmental body. Nothing in this section shall be deemed to
113 close the record of a person or entity using a credit card held in the name of a public
114 governmental body or any record of a transaction made by a person using a credit card or
115 other method of payment for which reimbursement is made by a public governmental body;

116 (23) Records submitted by an individual, corporation, or other business entity to a
117 public institution of higher education in connection with a proposal to license intellectual
118 property or perform sponsored research and which contains sales projections or other
119 business plan information the disclosure of which may endanger the competitiveness of a
120 business; ~~and~~

121 (24) Records relating to foster home or kinship placements of children in foster care
122 under section 210.498; **and**

123 **(25) Individually identifiable customer usage and billing records for customers**
124 **of a municipally owned utility unless the records are requested by the customer or**

125 **authorized for release by the customer, except that a municipally owned utility shall**
126 **make available to the public the customer's name, billing address, location of service,**
127 **and dates of service provided for any commercial service account.**

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